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DEPARTAMENTO PARA EL DESARROLLO SOCIAL COMUNITARIO

July 8, 2015

**Letter of Appeal**

Universal Service Administrative Company  
Schools and Libraries Division – Correspondence Unit  
30 Lanidex Plaza West, P.O. Box 685  
Parsippany, NJ 07054-0685

Via: *Certified Mail and email: [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org)*

Dear USAC Administrator:

Appellant/Applicant Entity: Biblioteca Abelardo Díaz Alfaro

Billed Entity Number: 16052522

Billed Entity FCC Registration Number (FCC RN): 0019729235

FCC Form 471 Application Number: 989482

Applicant's Form Identifier: 16052522-IA

Funding Year: 2014

Contact Person: **Sara I. Benítez, Directora, Departamento para el  
Desarrollo Social Comunitario**

Contact address: Municipio de San Juan, P.O. Box 707179, San Juan, PR 00923-8179; Tel: (787) 480-4248  
e-mail: [SIBENITEZ@SanJuanCiudadPatria.com](mailto:SIBENITEZ@SanJuanCiudadPatria.com)

**Sara I. Benítez Delgado**  
**Directora**

P.O. Box 70179  
San Juan P.R. 00936-8179  
Tel. (787) 480-4000 ext. 4247, 4248, 4244  
Fax (787) 754-2718

Service Provider: **A New Vision in Educational Services & Materials**  
**(NEVESEM) (SPIN 143022659)**

Funding Requests Nos. (FRN's): **2699874, 2699916, 2699986, 2700194, 2700262, 2700302, 2700361, 2700381, 2700460, 2700510, 2700529, 2700554, 2700594, 2700632, 2700651, 2700716, 2700737, 2700808, 2700832, 2700890, 2700909, 2701010**

On July 7, 2015 the Municipality of San Juan, received the *Administrator's Decision on Appeal - Funding Year 2014-2015*, to Sara I. Benítez, Director of the "Departamento para el Desarrollo Comunitario" in the municipality. It is stated therein that "our records show that your appeal was postmarked more than 60 days after the date your Administrator's Decision was issued, as shown above." It stated above that the **"Date Appeal Postmarked: June 10, 2015"**. And the Decision Letter date as April 09, 2015.

It is respectfully submitted that this determination is in error. Our appeal was postmarked on **June 09, 2015**.

This was done following the computation of time set forth in Title 47 C.F.R. Part 1, Subpart A §1.4, which states:

Title 47: Telecommunication  
PART 1—PRACTICE AND PROCEDURE  
Subpart A—General Rules of Practice and Procedure

#### **1.4 Computation of time.**

(a) *Purpose.* The purpose of this rule section is to detail the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission. It also applies to computation of time for seeking both reconsideration and judicial review of Commission decisions. In addition, this rule section prescribes the method for computing the amount of time within which the Commission must act in response to deadlines established by statute, a Commission rule, or Commission order.

(b) *General Rule—Computation of Beginning Date When Action is Initiated by Commission or Staff.* Unless otherwise provided, the first day to be counted when a period of time begins with an action taken by the Commission, an Administrative Law Judge or by members of the Commission or its staff pursuant to delegated authority **is the day after the day on which public notice of that action is given.**

See §1.4(b) (1)-(5) of this section. Unless otherwise provided, all Rules measuring time from the date of the issuance of a Commission document entitled "Public Notice" shall be calculated in accordance with this section. See §1.4(b)(4) of this section for a description of the "Public Notice" document. Unless otherwise provided in §1.4 (g) and (h) of this section, it is immaterial whether the first day is a "holiday." For purposes of this section, the term *public notice* means the date of any of the following events: See §1.4(e)(1) of this section for definition of "holiday."

And as per Rule 6 (a) of the Federal Rules of Civil Procedure, which exclude the day of the event that triggers the period; the Municipality of San Juan filed its appeal on the last day to do so, which was **June 9, 2015**, not June 10, 2015. The error could be attributed to technical problems, which were not resolved until June 10, 2015 when the correct document could be filed.

Notwithstanding, and because it was done right on the deadline, the Municipality of San Juan **also sent the appeal by certified mail on June 9, 2015.** See Exhibit 1, attached. Therefore, it is respectfully submitted that our appeal was postmarked within the 60-day deadline, from the date our Administrator's Decision on Appeal Letter was issued. As such, it is also respectfully requested that our appeal be reviewed on its merits.

Thank you in advance for your time and attention reviewing this matter. Please use the contact information above.

Sincerely,



Yadira Molina-Torres

for: Sara I. Benítez

Directora, Departamento para el Desarrollo Social Comunitario  
Municipality of San Juan

cc: A New Vision in Educational Services & Materials

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PS Form 3800, July 2014 See Reverse for Instructions

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===== Sales Receipt =====

Product	Sale Unit	Final
Description	Qty Price	Price

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@@ ~ PARSIPPANY NJ		\$5.75
07054-2717 Zone-I		
Priority Mail 3-day		
Flat Rate Env		
2.60 oz.		
Expected Delivery: Fri 06/12/15		
Includes up to \$50 insurance		

@@ Certified Mail	\$3.45
USPS Certified Mail #:	
70150920000140974601	
Return Receipt	\$2.80
Label #:	
9590940100655071676969	

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Issue Postage:	\$12.00
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Total: \$12.00

Paid by:

Cash	\$20.00
Charge Due:	-\$8.00

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DEPARTAMENTO PARA EL DESARROLLO SOCIAL COMUNITARIO

June 8, 2015

**Letter of Appeal**

Universal Service Administrative Company  
Schools and Libraries Division – Correspondence Unit  
30 Lanidex Plaza West, P.O. Box 685  
Parsippany, NJ 07054-0685  
Via: Certified Mail and email: [appeals@sl.universalservice.org](mailto:appeals@sl.universalservice.org)

Dear USAC Administrator:

Appellant/Applicant Entity: **Biblioteca Abelardo Díaz Alfaro**  
Billed Entity Number: **16052522**  
Billed Entity FCC Registration Number (FCC RN): **0019729235**  
FCC Form 471 Application Number: **989482**  
Applicant's Form Identifier: **16052522-IA**  
Funding Year: **2014**

Contact Person: **Sara I. Benítez, Director, Departamento para el Desarrollo Social Comunitario**  
Contact address: **Municipio de San Juan, P.O. Box 7179, San Juan, PR 00923-8179; Tel: (787) 480-4248 e-mail: [SIBENITEZ@SanJuanCiudadPatria.com](mailto:SIBENITEZ@SanJuanCiudadPatria.com)**

Service Provider: **A New Vision in Educational Services & Materials (NEVESEM) (SPIN 143022659)**

Funding Requests Nos. (FRN's): **2699874, 2699916, 2699986, 2700194, 2700262, 2700302, 2700361, 2700381, 2700460, 2700510, 2700529, 2700554, 2700594, 2700632, 2700651, 2700716, 2700737, 2700808, 2700832, 2700890, 2700909, 2701010**

Appeal Reason: **FCDL Funding Commitment Decision Letter for Funding Year 2014 dated April 9, 2015 - Denied for determination that a bona fide application was not submitted.**

USAC's Explanation for Denial: *"The FRN is denied because the FCC Form 470 does not comply with the statutory mandate that applicants submit bona fide requests for services... The additional specifications provided in the e-mail serves to re-start the bidding process and bidders should have been given 28 days from the date of that email to provide a bid responsive to the specifications as stated in the email."*

**Sara I. Benítez Delgado**  
**Directora**

P.O. Box 70179  
San Juan P.R. 00936-8179  
Tel. (787) 480-4000 ext. 4247, 4248, 4244

Under the FCC's competitive bidding rules, applicants must submit for posting on USAC's website an FCC Form 470 requesting discounts for E-rate eligible services or any services for which the applicant is seeking a new contract. In its Form 470, the applicant must describe the requested services with sufficient specificity to enable potential service providers to submit bids for such services; and provide this description on its FCC Form 470 or indicate on the form that it has an RFP available providing detail about the requested services. According to the aforementioned rules, the RFP must be available to all potential bidders for the duration of the bidding process. And, after submitting an FCC Form 470, the applicant must wait 28 days before making commitments with the selected service providers. *See* 47 C.F.R. § 54.504 (2006); *see also* 47 C.F.R. § 54.503 (2011); *see also* Form 470.

In your April 9, 2015 letter, USAC informed the Municipality of San Juan of its decision in regard to our appeal of USAC's Funding Year 2014 Funding Commitment Decision Letter for the Application Number above. The basis for USAC's denial of said funding was a finding to the effect that the Municipality's FCC Form 470 was "encyclopedic" and did not list only those services for which funding was actually sought, and thus, potential bidders "would not be able to compose a responsive bid without seeking additional information". The fact that several potential bidders required additional information and the Municipality provided specifications not included in its FCC Form 470 in a subsequent e-mail was cited as grounds for this finding. Thus, USAC found that said subsequent email re-started the bidding process and the bidders should have been given 28 days from such date to provide a bid responsive to the specifications as stated in the email.

The Municipality of San Juan respectfully disagrees with USAC's Administrator's Decision on Appeal and as per said communication of April 9, 2015, hereby appeals with USAC's finding that an RFP was not available for service providers to review for 28 days (from release date to due date). The email dated 03/18/2014, was sent to vendors as a follow-up to FCC Form 470 of **February 13, 2014**. It is hereby again clarified that this communication **was not a new RFP**. This was done because some vendors had questions regarding the specifications for the bids for FCC Form 470. The Municipality understood that a communication via email to all bidders clarifying individual questions presented was the most efficient and fair method to answer them, instead of doing so in an individual basis.

This is another example of the limited availability of eligible, qualified potential vendors for these services in the Island. The Municipality's FCC Form 470 was done in the same manner as previous years, 2010, 2011, 2012 and 2013. These forms had been reviewed and audited by USAC and there had never been a finding that they were "encyclopedic" or insufficient in their content. It is respectfully submitted that the questions that arose during the bidding process stem from the inadequate expertise in this area from the potential bidders, not from a deficient FCC Form 470 for FY2014.

The follow-up email was the Municipality's effort to observe a fair and open competitive bidding process, which is fundamental to the integrity of the E-rate program. *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9076-80, paras. 570-80 (1997) (*Universal Service First Report and Order*) (subsequent history omitted) (requiring applicants to conduct a fair and open competitive bidding process when seeking support for eligible products and services); *Federal-State Joint Board on Universal Service; Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure and Pricing; End User Common Line Charge*, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, and 95-72, Report and Order and Fourth Order on Reconsideration, 13 FCC Rcd 5318, 5425-26, para. 185 (1997) (*Schools and Libraries Fourth Order on Reconsideration*) (stating that competitive bidding is a key component of the Commission's effort to ensure that universal service funds support services that satisfy the precise needs of an institution, and that the

services are provided at the lowest possible rates).

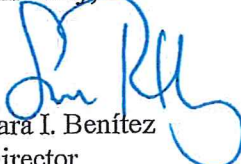
The bidding was competitive and was clearly done to avoid any waste or misuse of the limited funds available and with the acknowledgment of the importance of the competitive bidding process to the program. The Municipality fully complied with FCC's requirement that all bidders be treated equally and that no bidders receive an unfair advantage. *See, e.g., Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912, 26939, para. 66 (2003) (stating that a fair and open competitive bidding process is critical to preventing waste, fraud, and abuse of program resources).

As stated, **this was not a new RFP**. The email dated 03/18/2014, was sent to all potential bidders as a follow-up to FCC Form 470 of February 13, 2014. In order to be fair to all bidders, all questions were answered at the same time. However, this action did not involve a new RFP. All potential bidders were treated equally, even when they were clearly ineligible to provide the services as requested in our FCC Form 470. Accordingly, not only the Municipality granted **28 days** before vendor evaluation/selection was performed. It granted **34 days** before selecting the winning bid. See table below and attached documentation:

Event	Date
USAC 470 application 838040001220193 ( <b>Exhibit 1</b> )	February 12, 2014
FCC FORM 470 838040001220193 ( <b>Exhibit 2</b> )	February 13, 2014
Email sent to FCC 470 FY 2014 ( <b>Exhibit 3</b> )	February 13, 2014
E-mail sent to all bidders of follow-up re: Broadband Specifications (not RFP) ( <b>Exhibit 4</b> )	March 18, 2014
Answers from Bidders due	March 19, 2014
Request for Approval from Bid Board ( <b>Exhibit 5</b> )	March 25, 2014
Vendor Approval by Bid Board ( <b>Exhibit 6</b> )	March 26, 2014

Thus, it is respectfully requested that USAC overturn the denial and restore full funding of these FRN's. Given the circumstances here, failure to reconsider its denial would be most unfortunate because the Municipality selected the lowest cost bid and that it did not engage in fraud, waste, abuse or misuse of funds. The monies have been earmarked received from USAC for good and valuable services received from a service provider who was selected through a fair and unbiased competitive bidding process and who, as an undisputed fact, offered the lowest cost proposal. This is a good use of E-rate funds. Thank you in advance for your time and attention reviewing this appeal. Please use the contact information above.

Sincerely,



Sara I. Benítez  
Director,  
Departamento para el Desarrollo Social Comunitario  
Municipality of San Juan

cc: A New Vision in Educational Services & Materials